

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL DRUMM,

Plaintiff,

v.

MORNINGSTAR, INC.,

Defendant.

NO. C08-3362 TEH

ORDER APPOINTING SPECIAL
MASTER FOR DISCOVERY

The Court is in receipt of the parties' letter briefs dated April 17, 2009, and Defendant's additional letter of April 20, regarding a new discovery dispute. The Court is dismayed that this newest dispute arises barely two weeks after the Court resolved the parties' prior dispute with its order of April 2, 2009. Although the Court invited counsel to submit letter briefs in the case of intractable discovery disputes, it appears that discovery in this case may require greater judicial resources than the Court anticipated. Reasonable counsel should be able to resolve such conflicts independent of judicial intervention, and the Court remains optimistic that these counsel will be capable of independent and timely resolution of this and subsequent discovery matters. In the case that the parties are not capable of such resolution, with good cause appearing, IT IS HEREBY ORDERED that:

1. Edward Swanson, Esq., of Swanson & McNamara, LLP, is appointed as Special Master to supervise and preside over all remaining discovery in this case, including the issue currently pending before the Court.

1 a. If necessary, the Special Master may attend all or portions of any depositions,
2 rule on all objections made by counsel during the depositions, rule on any instructions by
3 counsel for the deponent not to answer a question, and order the deponent to respond to
4 questions.

5 b. The Special Master shall immediately notify this Court if, during a deposition
6 in which he is in attendance, any counsel fails to comply or cooperate fully with any of the
7 Special Master's rulings.

8 2. The Special Master's hourly fee shall be \$450.00. The Special Master shall, in
9 his discretion, allocate and assess the payment of his fees among the parties. The parties
10 shall pay the Special Master's fees within ten calendar days of assessment, unless otherwise
11 excused by the Special Master or this Court.

12 3. At his earliest convenience, the Special Master shall contact the parties to discuss
13 the execution of his duties in connection with this order.

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15 **IT IS SO ORDERED.**

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17 Dated: April 21, 2009



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19 THELTON E. HENDERSON, JUDGE
20 UNITED STATES DISTRICT COURT
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